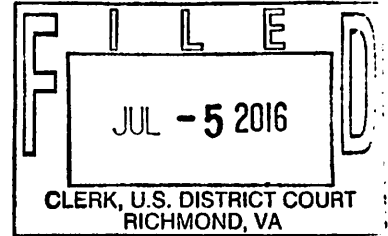


IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION



JAMES A. WASHINGTON,

Plaintiff,

v.

HILL PHOENIX, INC.,

Defendant.

Civil Matter No.:

3:16cv557

**DEFENDANT'S NOTICE OF REMOVAL**

Defendant Hill Phoenix, Inc. ("Hill Phoenix"), by the undersigned counsel, pursuant to 28 U.S.C. §§ 1331, 1332, 1441 and 1446, hereby removes this action from the Circuit Court of the City of Richmond, Virginia, to the United States District Court for the Eastern District of Virginia, Richmond Division. In support of its Notice of Removal, Hill Phoenix states as follows:

**I. Timeliness of Removal**

1. On June 9, 2016, the plaintiff, James A. Washington ("Washington"), commenced a lawsuit in the Circuit Court for the City of Richmond, Virginia entitled *James A. Washington v. Hill Phoenix, Inc.*, Case Number CL16002697-00.

2. Copies of all process, pleadings, papers and orders filed in the Circuit Court of the City of Richmond, Virginia are attached to this Notice of Removal as **Exhibit A**.

3. Hill Phoenix was served with a copy of the Complaint on June 13, 2016.

4. Pursuant to 28 U.S.C. § 1446(b)(1), this Notice of Removal is filed within thirty (30) days after Hill Phoenix received, through service or otherwise, a copy of the initial pleading setting forth the claim for relief upon which such action is based.

## **II. Venue**

5. Venue is proper in this Court under 28 U.S.C. § 1441(a) because the State court in which this action is pending, the Circuit Court for the City of Richmond, Virginia, is within the Richmond Division of the United States District Court for the Eastern District of Virginia.

## **III. First Basis for Removal: Diversity Jurisdiction**

6. This action is properly removable under 28 U.S.C. § 1441(a), because the United States District Court has original jurisdiction in this case pursuant to 28 U.S.C. § 1332(a), which provides, “The district courts shall have original jurisdiction of all civil actions where the matter is controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States . . . .”

### **A. The Amount in Controversy Exceeds \$75,000**

7. The plaintiff’s Complaint seeks a variety of relief, including, among other things: (i) lost wages and benefits; (ii) compensatory damages in the amount of three hundred thousand dollars (\$300,000); (iii) punitive damages in the amount of three hundred thousand dollars (\$300,000); (iv) costs, reasonable attorney’s fees, and expenses; and (v) pre- and post-judgment interest.

8. Accordingly, the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

### **B. Complete Diversity of Citizenship Exists**

9. This action involves a controversy wholly between citizens of different states, and there is complete diversity of citizenship.

10. Upon information and belief, the plaintiff is, and was at the commencement of this action, a citizen resident of the Commonwealth of Virginia. *See* Compl. ¶¶ 6, 13, attached as **Exhibit A**.

11. Defendant Hill Phoenix is now, and was at the commencement of this action, a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Conyers, Georgia. *See id.* ¶ 5.

12. No change of citizenship has occurred since the commencement of this action.

13. Accordingly, this Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1332(a) and 1441(a) because the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and complete diversity of citizenship exists.

#### **IV. Second Basis for Removal: Federal Question Jurisdiction**

14. This action is properly removable under 28 U.S.C. § 1441(b), because the United States District Court has original jurisdiction pursuant to 28 U.S.C. § 1331, which provides that “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

15. Plaintiff’s Complaint alleges that Hill Phoenix violated the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.* (“ADEA”), and the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*, as amended by, *inter alia*, the Civil Rights Act of 1991, 42 U.S.C. § 1981a (“ADA”).

16. By asserting claims under federal law, namely, the ADEA and the ADA, Plaintiff’s Complaint asserts a federal question under 28 U.S.C. § 1331. Accordingly, this case is properly removable under 28 U.S.C. § 1441(a).

**V. Conclusion**

17. Pursuant to 28 U.S.C. § 1446(d), Hill Phoenix filed this Notice of Removal with this Court and is sending copies of the Notice of Removal to counsel for the plaintiff and to the clerk of the Circuit Court for the City of Richmond, Virginia.

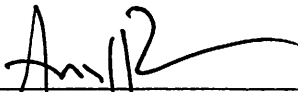
18. The undersigned has read this Notice of Removal, and, to the best of the undersigned's knowledge, information, and belief, formed after reasonable inquiry, it is well-grounded in fact, warranted by existing law, and is not being presented for any improper purpose.

19. The requirements of the removal statute having been met, Hill Phoenix's right to remove this action to this Court is absolute.

Dated: July 5, 2016

Respectfully Submitted,

**HILL PHOENIX, INC.**

By  \_\_\_\_\_

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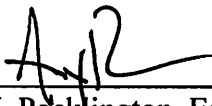
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**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that a copy of the foregoing was served via United States mail, postage-prepaid, this 5th day of July, 2016 upon the following:

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**HILL PHOENIX, INC.**

By   
\_\_\_\_\_  
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